

AMENDED IN SENATE APRIL 19, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 977**

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**Introduced by Senator Pan**  
(Coauthor: Assembly Member Cooper)

February 10, 2016

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An act to amend Section 104495 of the Health and Safety Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 977, as amended, Pan. Tobacco: youth sports events.

Existing law prohibits the smoking of a cigarette, cigar, or other tobacco-related product, and the disposal of tobacco-related waste, within 25 feet of any playground or tot lot sandbox area, as defined. Existing law prohibits a person from intimidating or retaliating against another person seeking compliance with these prohibitions. A violation of these prohibitions is an infraction, punishable by a fine of \$250 for each violation. Existing law expressly does not preempt the authority of any county, city, or city and county to regulate smoking around playgrounds or tot lot sandbox areas.

This bill would prohibit the use of a tobacco product, as defined, within 250 feet of a youth sports event, *as defined*, and make a violation an infraction punishable by a fine of \$250 for each violation. The bill would state that its provisions do not preempt the authority of any county, city, or city and county to regulate the use of tobacco products around a youth sports event. By establishing a new crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 104495 of the Health and Safety Code  
2 is amended to read:

3 104495. (a) For the purposes of this section, the following  
4 definitions shall govern:

5 (1) "Playground" means any park or recreational area  
6 specifically designed to be used by children that has play equipment  
7 installed, or any similar facility located on public or private school  
8 grounds, or on city, county, or state park grounds.

9 (2) "Tot lot sandbox area" means a designated play area within  
10 a public park for the use by children under five years of age. Where  
11 the area is not contained by a fence, the boundary of a tot lot  
12 sandbox area shall be defined by the edge of the resilient surface  
13 of safety material, such as concrete or wood, or any other material  
14 surrounding the tot lot sandbox area.

15 (3) "Public park" includes a park operated by a public agency.

16 (4) "Youth sports event" means any practice, game, or related  
17 activity organized by ~~a nonprofit youth sports organization~~ any  
18 entity at which athletes up to 18 years of age are present.

19 (5) "Smoke or smoking" means inhaling, exhaling, burning, or  
20 carrying any lighted or heated cigar, cigarette, or pipe, or any other  
21 lighted or heated tobacco or plant product intended for inhalation,  
22 whether natural or synthetic, in any manner or in any form.  
23 "Smoking" includes the use of an electronic smoking device that  
24 creates an aerosol or vapor, in any manner or in any form, or the  
25 use of any oral smoking device for the purpose of circumventing  
26 the prohibition of smoking.

27 (6) "Cigarette" means the same as defined in Section 104556.

28 (7) "Cigar" means the same as defined in Section 104550.

29 (8) "Tobacco product" means any of the following:

1 (A) A product containing, made, or derived from tobacco or  
2 nicotine that is intended for human consumption, whether smoked,  
3 heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or  
4 ingested by any other means, including, but not limited to,  
5 cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or  
6 snuff.

7 (B) An electronic device that delivers nicotine or other vaporized  
8 liquids to the person inhaling from the device, including, but not  
9 limited to, an electronic cigarette, cigar, pipe, or hookah.

10 (C) Any component, part, or accessory of a tobacco product,  
11 whether or not sold separately.

12 (b) A person shall not smoke a cigarette, cigar, or other  
13 tobacco-related product within 25 feet of any playground or tot  
14 lot sandbox area.

15 (c) A person shall not dispose of cigarette butts, cigar butts, or  
16 any other tobacco-related waste within 25 feet of a playground or  
17 a tot lot sandbox area.

18 (d) A person shall not use a tobacco product within 250 feet of  
19 a youth sports event.

20 (e) A person shall not intimidate, threaten any reprisal, or effect  
21 any reprisal, for the purpose of retaliating against another person  
22 who seeks to attain compliance with this section.

23 (f) Any person who violates this section is guilty of an infraction  
24 and shall be punished by a fine of two hundred fifty dollars (\$250)  
25 for each violation of this section. Punishment under this section  
26 shall not preclude punishment pursuant to Section 13002, Section  
27 374.4 of the Penal Code, or any other law proscribing the act of  
28 littering.

29 (g) The prohibitions contained in subdivisions (b), (c), (d), and  
30 (e) shall not apply to private property.

31 (h) The prohibitions contained in subdivisions (b) and (c) shall  
32 not apply to a public sidewalk located within 25 feet of a  
33 playground or a tot lot sandbox area.

34 (i) This section shall not preempt the authority of any county,  
35 city, or city and county to regulate smoking around playgrounds  
36 or tot lot sandbox areas. Any county, city, or city and county may  
37 enforce any ordinance adopted prior to January 1, 2002, or may  
38 adopt and enforce new regulations that are more restrictive than  
39 this section, on and after January 1, 2002.

1 (j) This section shall not preempt the authority of any county,  
2 city, or city and county to regulate the use of tobacco products  
3 around a youth sports event. Any county, city, or city and county  
4 may enforce any ordinance adopted before January 1, 2017, or  
5 may adopt and enforce a new regulation that is more restrictive  
6 than this section, on and after January 1, 2017.

7 SEC. 2. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.